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Captain S Y K E S's
TRIAL for CRIM. CON.

Chaste Thoughts on ADULTERY;

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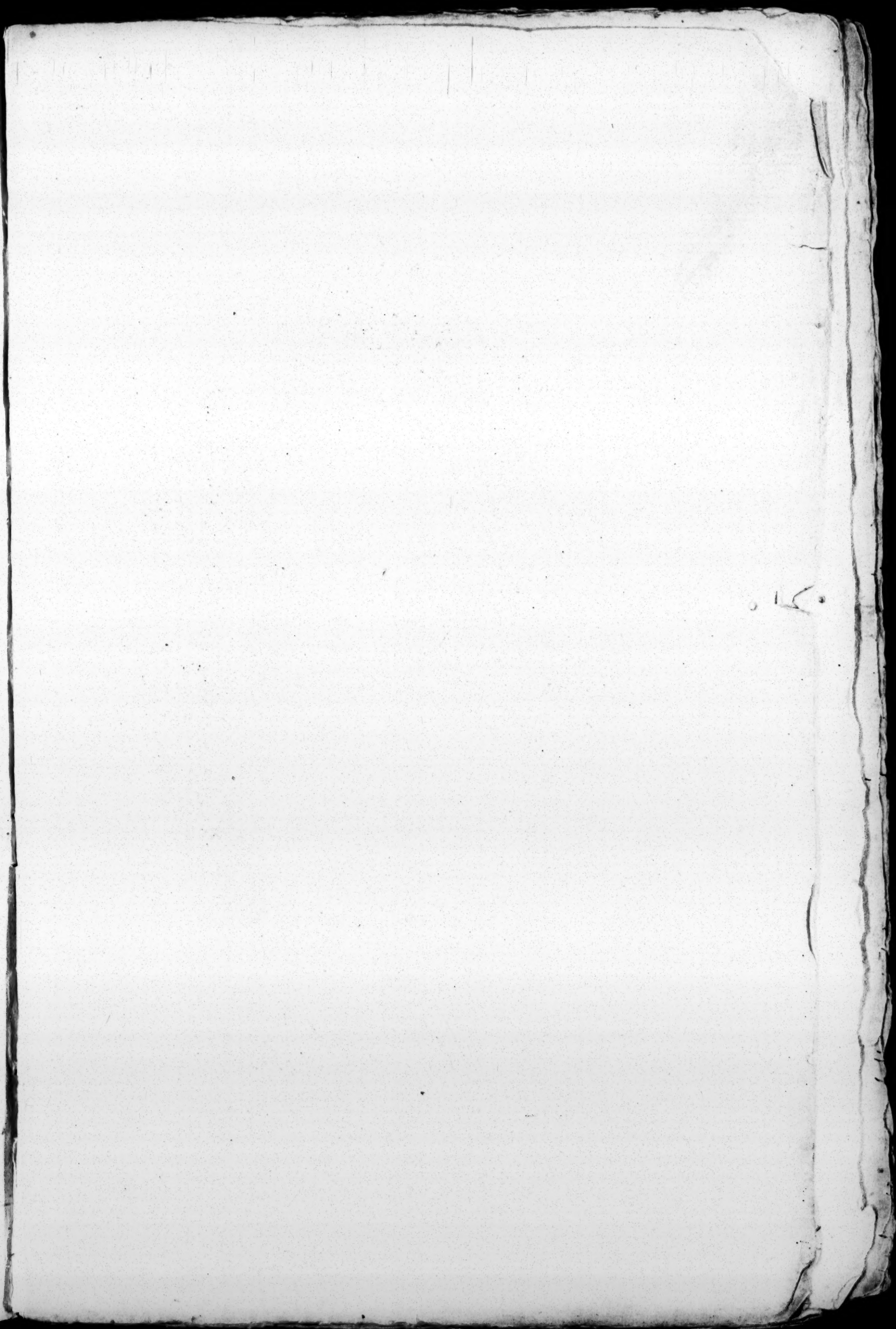
Lieutenant KINDILLAN's
T R I A L for a R A P E

On the BODY of

Miss ELIZABETH EGAN.

Tried in DUBLIN, on the 14th of *December*, 1789.







M^{rs} Parlow

London, Pub^d by William Holland, N^o 50, Oxford Street, Jan^y 1. 1790.

Parslow, Sykes, & Kindillan.

TRIAL for ADULTERY,

In the COURT of KING's-BENCH,

Before LORD KENYON,

On the 9th of DECEMBER, 1789;

JOHN PARSLow, Esq. *Plaintiff,*

AND

FRANCIS WILLIAM SYKES, Esq.

Defendant,

For Criminal Conversation with Mrs. *Parslow.*

TO WHICH ARE ADDED

Chaste Thoughts on ADULTERY,

By an EMINENT BARRISTER.

AND THE

TRIAL of Robert Kindillan, Esq.

(Natural Son to the late EARL of BELVIDERE,)

For a RAPE on the Body of

Miss ELIZABETH EGAN;

Tried in DUBLIN, on the 14th of December, 1789.

Embellished with an animated LIKENESS of Mrs. PARSLow.

L O N D O N :

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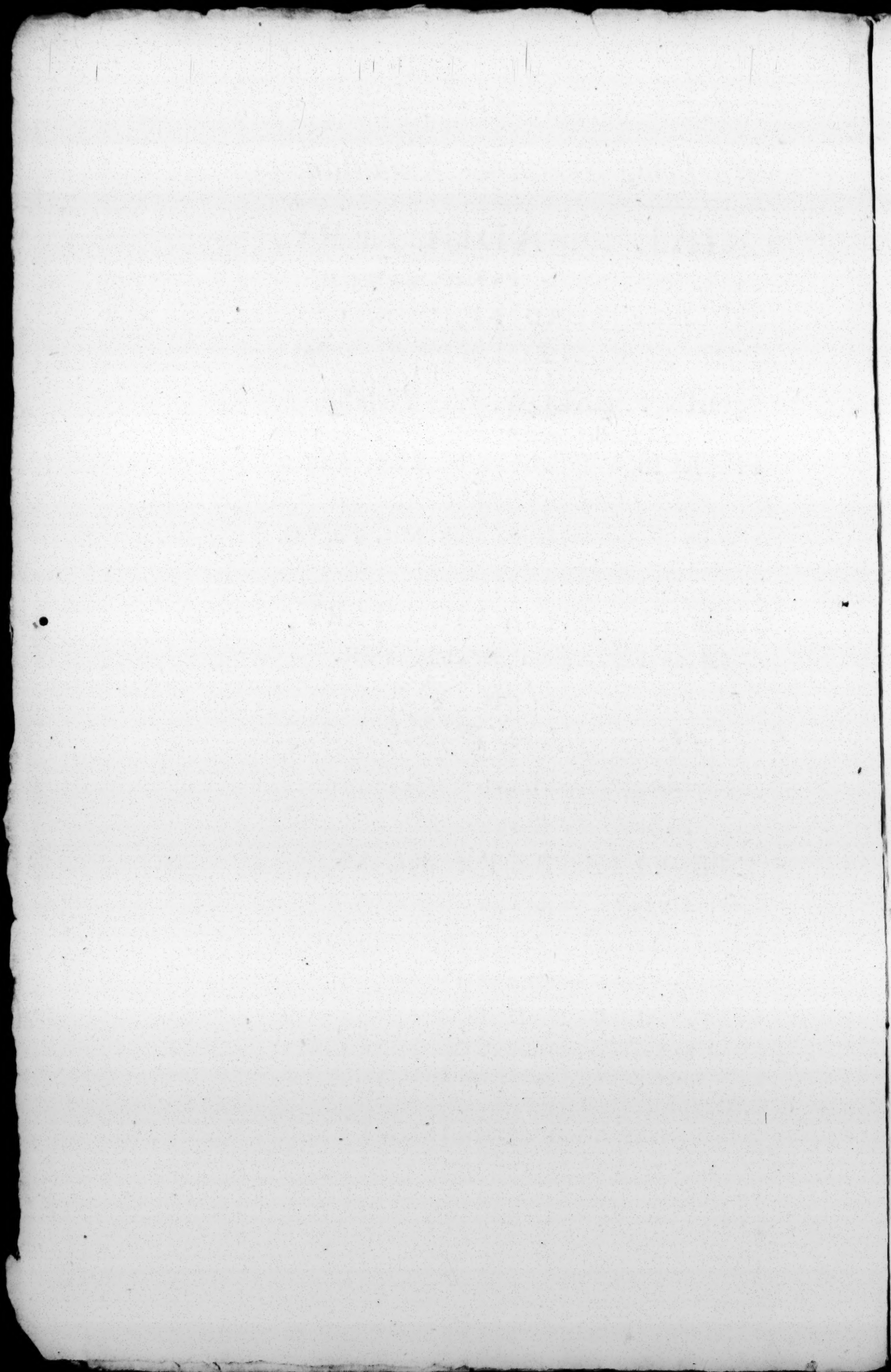
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The TRIAL, &c.

THIS was an action brought by Captain Parflow, against the defendant Francis Sykes, Esq. for criminal conversation with his wife.—The damages were laid at 10,000l.

The trial came on before the Right Honourable Lord Kenyon, and a special jury, on Wednesday, the 9th of December, 1789, in the court of King's-Bench, Westminster.

C O U N S E L.

For the Plaintiff.
Mess. Erskine,
Shepherd, and
Russell.

For the Defendant.
Mess. Bearcroft,
Baldwin, &c.
&c. &c.

S O L I C I T O R S.

For the plaintiff—Nield and Bush, Norfolk-street.

For the defendant—Messrs. Grahams, Lincoln's-Inn.

Mr. ERSKINE opened the case on the part of the plaintiff. He stated the rank of the parties; the plaintiff was an officer in the dragoons, and a young gentleman; depending upon his character as an officer, with little fortune. The defendant was also an officer, and the son of Sir Francis Sykes, a man who had acquired a very extensive fortune in India, and to whom the defendant was an only son. As officers, it was just to expect in them that natural gallantry which distinguishes characters of a military life; and to the honour of that most honourable profession, he was happy in having an opportunity to say, that the gallantry of officers in general to the fair sex, was not more distinguishable than that heroic gallantry which has so often defended their country, and the honour of the state. He was sorry to observe, that to the former part of this description of an officer, the defendant formed a complete exception; for, instead of that candour and open manliness of spirit which belongs to a military life, instead of that generosity of temper which distinguishes the foldier, the defendant, by his behaviour, formed a complete contrast and reverse. He was the brother officer of the plaintiff; they were together in the same garrison, and the defendant at the mess of that garrison. The defendant, as a specimen of his disposition, declares in company, that the plaintiff's wife is a
 beautiful

beautiful woman, and that he should like to debauch her: this, Mr. Erskine said, should be proved, or he would not venture to assert it. It might be asked, perhaps, why those gentlemen who were of the mess, and who were the professed friends of the plaintiff, had not communicated this to him immediately, for the purpose of putting him on his guard?—To this it might be answered, that the task was not light and easy, nor were the consequences likely to ensue light and easy; it might have ended in blood, and, perhaps, death; and therefore it was not communicated to the plaintiff: it was also at that time the hope of those who heard this observation from the defendant, that it was the effect of inordinate rashness of temper; for had the intimation been made to the plaintiff, the parties must have had a conflict, according to modern custom, very different from that in which they were now engaged.

They visited each other in character and habits of the strictest intimacy for a considerable time; and the plaintiff had not the most distant suspicion of the intention of the defendant, nor was there any other person who had; for it was conducted with the most complete deception;—the defendant deporting himself towards the lady with the most respectful apparent modesty. The plaintiff, in this situation, must have been a brute

to have entertained any suspicion; his conduct, therefore, towards his wife, was most affectionate and exemplary in the extreme; he suffered her to go on visits to her friends; he did not think of keeping her aloof from temptation; for he did not know, nor had he any reason to suspect, that she was assailed with any.

Among the visits which she made, was one to her sister, Mrs. Wallace, who resides at Windsor; she had gone there, and in company with Mr. and Mrs. Wallace, to *Ascot races*; she was there met by the defendant Mr. Sykes, who was on the sporting-ground in a phaeton; the ladies were in a carriage, and desirous of partaking of the amusements of the race; they met the defendant, who invited Mrs. Parflow to ride in the open phaeton, which she, after a short conversation with Mr. Wallace, informing him that Mr. Sykes was her husband's brother officer, accepted: they then took a view of the ground, and Mrs. Parflow returned to her sister. On this, as on all the subsequent occasions, the greatest respect was paid to modesty and delicacy; nor was there on earth any reason for the plaintiff's supposing that the defendant was supplanting him in the affections of his wife; they were often together, but nothing would appear which could justify the jealousy of Mr. Parflow, respecting the intention of Mr. Sykes, until the evening on which the fatal
wound

wound was given to the peace of mind of Mr. Parflow.

On Sunday evening, in July last, the defendant in his phaeton paid a visit to the plaintiff, at his house, and solicited permission to take Mrs. Parflow out for an airing; she complaining of ill health, and wishing for air, the plaintiff, in affection for his wife, consented, and handed her to the carriage, without the least suspicion that he saw her for the last time. He waited until night came on—but such a night!—all the reward that can be offered to man on this side the grave, would not induce him to pass it over again!—a situation which bids defiance to the power of words!—Anxious for the safety, honour, virtue, nay, life of the dearest partner of his life, and knowing not what to think—ten, eleven, and the hour of midnight came, but not his wife. It might be said, in the words of the almost-inspired poet,

O what damned minutes turns he o'er,
Who doats, yet doubts, and doubts, still doth love!

In this state of distraction he continued until Tuesday, when his affection struggling conquered his anger: he followed his wife; but the defendant eluded all vigilance, and brought the lady with him in triumph to London, and there was known to vaunt of his victory; this would clearly

ly demonstrate that the defendant was deliberately wilful in his villainy: he could not plead, that he was driven off the poise of his reason, by the impetuosity of a momentary and irresistible influence; he could not urge in his defence, that he was suddenly subdued by the force of ungovernable appetite, aided by a combination of importuning events:—it was a cool, deliberate, systematic seduction, which the jury could better feel than the advocate could possibly describe; on their consciences it was fair to draw for the deficiencies of expression. There was every reason to believe, that but for the intrusion of the defendant, that many children would have blessed the parents, and adorned the family—children, at once the care and happy fruits of the endearments of the nuptial bed!—children, whose innocent appearance gave vigour to declining age, and whose engaging manners sweetened the most bitter drops of the cup of affliction!—It is for them we toil, and endure the hardships of the roughest life!—it is for them we labour beyond the period at which it is natural to seek repose in retired life!—it is for them the greatest female beauty fades without regret; and who, when she contemplates her own decay, smiles in viewing, as it were, her own beauty commencing a new life!—With this view, the orator, whose eloquence was wont to astonish and convince the applaud-
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ing senate, slopes into the vale of years—finds in his son the orator arising, while himself is sunk in powers below the level of common conversation!—Were we incapable of feeling these becoming hopes of our posterity, we should be chargeable with the appetite of brutes, and not the sublime sensations of human beings; and but for this, children would be deemed a curse, instead of a consolation; the most splendid and commodious palace, without these feelings, would be more horrid than a dungeon!

It might, perhaps, be urged, that the defendant, when we come to consider the amount of the damages, was not himself a man of property; and that although his father is, yet he may be unable to prevail on his father to support him: to this the law will answer, That if the defendant, in this atrocious case, is unable to pay in his purse, he must pay in person; let him stay in jail, until he is either able to pay himself, or until somebody else is ready to pay for him; a compensation for this injury was not in the power of the jury to give; for were they give 20,000l. which is double the sum which the plaintiff claims, it would yet be nothing like a compensation. The jury, he was sure, was aware that they were clothed with power, and armed with the duty of citizens, to do as much as the law would allow them to do, towards a reparation to the plaintiff,
for

for this indelible spot upon the honour of his family: attempts would perhaps be made, on the part of the defendant, to lessen the enormity of his offence, but he believed it would not succeed.

Mr. *Wilkinson* proved the marriage between Mr. and Mrs. Parflow; it took place on the 9th of May, 1785; he was then lieutenant, and is now captain in the King's Dragoons.

Captain *Williams* proved that he was abroad with Mr. and Mrs. Parflow, when they were on the continent, and other places; that they always appeared very happy and affectionate to each other; that Mr. Parflow treated his lady with particular tenderness and affection. That the defendant, Mr. Sykes, came into the same regiment, and Captain Williams heard him say, about three weeks after he came into the regiment, in the mess, that it would give him great pleasure to debauch Mrs. Parflow. Mr. Parflow did not hear this; Sir Edward Smith and Captain Williams were the only two officers present when this observation was uttered.

That Mr. Sykes had frequently taken tea with Mr. and Mrs. Parflow, but not the least impropriety was observed on the part of Mrs. Parflow, nor did she shew any particular partiality for the company of Mr. Sykes; nor was there any particular observation made relative to the visits of Mr. Sykes, being only admitted into the family

as

as any other officer might be, and as other officers were admitted. Nothing whatever passed that ought to have alarmed the suspicions of Mr. Parflow, relative to the chastity of his wife.

That Mr. Sykes visited Mr. and Mrs. Parflow at Reading, and other places, and that Mr. Parflow was for a short time absent from his lady, because it was impossible that she could, at that particular time, accommodate any lady with lodgings; this was for a short time, and was unavoidable.

Captain *Williams*, on his cross examination, proved, that Mrs. Parflow never, to his knowledge, dined at the mess of the officers, except when the regiment was on a march. That he never knew Mr. Sykes and Mrs. Parflow to ride out together alone; that the deportment of Mrs. Parflow was without exception, and without suspicion, chaste; and under that idea she visited Captain Williams's lady, and the ladies of all the other officers, which would not have been permitted, had there been a doubt entertained of her character.

Major *Callow* gave evidence to the same effect.

Captain *Watson* also proved the behaviour of Mr. Parflow to his lady to be very tender and affectionate, nor did he see or hear of the least impropriety in the behaviour of Mrs. Parflow: he also added, that he should not have permitted
visits

visits from her, or to her and his lady, had there been any doubts entertained of the honour of Mrs. Parflow.

Col. *Gwyn* gave an accurate account of the behaviour of Mr. Sykes in the regiment which the Colonel had the honour of commanding; he corroborated the testimony which tended to prove the want of accommodation to the ladies, when Mr. Parflow was necessitated to be absent from Mrs. Parflow; this was at Sudbury. The Colonel said, that although Mr. Sykes *appeared* of mature and discreet age, yet his *manner* was young enough.

Mr. *M^r Mahon*, surgeon to the regiment, proved that three years ago he advised Mrs. Parflow to change the air, and to ride in open carriages as often as possible; that Mr. Parflow was very tender and affectionate to his lady, and conducted her to the Continent, for the purpose of establishing her health; but, unfortunately, when she returned, she was rather worse; but for this he could not account: sure he was that Mr. Parflow continued his affections to the day of their unhappy separation; nor did he observe from her any behaviour that could in the most remote degree tend to alarm her husband.

Mrs. *Sophia Belchere*, who keeps the house of the City of London and Dover. She proved that
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the plaintiff was extremely affectionate to his lady while they were at her house.

Captain *Wallace* proved, that he is married to Mrs. Parflow's sister; he gave an account of the interview at Ascot races between Mr. Sykes and Mrs. Parflow, in which nothing happened to induce his suspicions of any improper intimacy having subsisted, or intended, between Mr. Sykes and Mrs. Parflow; nor was there any suspicion of that kind entertained in the family until the hour of elopement; indeed it was not suspected until after ten at night. He also proved that Mrs. Parflow conducted herself with the strictest propriety before the elopement; that when the unhappy event was found out, he never saw a man more miserable than Mr. Parflow appeared to be; indeed he seemed distracted; they both went to London in search of Mrs. Parflow, but passed them, without knowing it, at Thetford.

Captain *Pye* proved he saw Mr. Sykes and Mrs. Parflow going on the road from Ipswich to Thetford; they seemed confused when he addressed them; and Mrs. Parflow said, "Turn round, and go home as soon as you can." Mr. Sykes said he would turn in the town, and then drove on. This gentleman also bore testimony of Mr. Parflow's affection to his lady.

Mr. *Broadbell* keeps the George inn at Thetford; said, that between the 19th and 20th of July,

July, a gentleman and lady came to his house in a post-chaise and four horses; the gentleman he was sure was the son of Sir Francis Sykes; that he had a bill, for which he wanted cash; that the lady who was with him he was going to marry; that he wanted to go to London by cross-roads, to avoid pursuits: but that if he could not get cash for the bill, he must go by the way of New-market.

Margaret Kemp, the chambermaid of the inn, proved that the lady ordered her to shew a room, and to fit it up, which she did; and the lady undressed, and bid the chambermaid say she was in bed, and desire him to come up. The chambermaid did so, and the gentleman went up stairs, and went into the room, and put out the candle, ordering the maid to call them at nine in the morning; that he expected somebody to call for him; he then bolted the door. They both went off the next morning.

Letitia Fletcher, chambermaid at Osborn's Hotel, swore that in July last Mr. Sykes and a lady came to their house, and two bed-chambers were fitted out for them;—but---but---they lay in one.

How do you know?---O I know! How do you know?---Because I *saw them in bed together*. They staid here for only one night.

Mrs.

Mrs. *Elizabeth Crisp*, No. 3, Bennet-street, St. James's, swore, that in July Mr. Sykes came to her house with a lady, whom she believed to be his wife, and whom she afterwards found out to be Mrs. Parflow; they lived there a fortnight; there was only one bed made up for them.

The Rev. Mr. *Methal* proved he knew Mr. Sykes at college; that in July last he met Mr. Sykes at the Mount coffee-house, where Mr. Sykes asked Mr. Methal whether he had heard any thing from Ipswich; to which Mr. Methal returned no answer; that Mr. Sykes said, "I met Wallace and Parflow just now; if he is determined to fight me, I am ready for him; I am come to town with Mrs. Parflow; I have her at No. 3, Bennet-street, where I shall be glad to see my *journey* or *scheme* to Ipswich has answered my purpose." This was partly addressed to the company in the coffee-house, who were about forty in number, ten at least being at that table.

Here ended the case for the plaintiff.

Mr. BEARCROFT, for the defendant, addressed the jury; he was ready to confess that what he might call a long experience in a laborious profession, did not furnish him with an instance equal in difficulty to the present case--he was indeed oppressed in two respects---The one was, to en-

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counter

counter the effect of the picture which the eloquence of Mr. ERSKINE had drawn of the case ; this he had done in so wonderful a manner, that he was persuaded, although the sounds do not at this instant vibrate in the ears of the jury, the effect still clings to their hearts ; he, however, as a matter of justice, called upon them to dismiss the whole of this glowing picture, until all the characters should appear in a group upon the canvas ; this group was the whole of the evidence in the cause. He was aware of the great discretion as well as eloquence of Mr. Erskine, for he had anticipated the defence in some degree, by endeavouring to prepare the jury, and to fortify them against the effect of the negligence and inattention of the plaintiff to his wife. The case, he was ready to confess, as it now stood, was a very serious one, and would remain so, unless it could be proved that the defendant was an idle profligate child of a kind and indulgent parent ; and also, unless it could be proved that temptations of the most subduing kind had been permitted by the plaintiff to stand in the defendant's way. These were the circumstances of the defence, which, if proved, must mitigate the damages. And with respect to the circumstance, that the defendant was the son of a rich father, it was proper to observe, that it was a fortune acquired by the father, and which consequently he could,

could, if he pleased, with-hold for ever from the son ; therefore, if damages were given against this young man which he could not pay, they might operate as perpetual imprisonment ; this would be against the spirit of the law ; for the maxim, that if a man cannot pay in purse, he must in person, was applicable only to *criminal proceedings* ; it was not so with respect to *civil suits*. He desired it to be understood, that by this defence he did not charge Mr. Parflow with the base attempt of conniving with his wife, which, in such cases, has sometimes been done ; nor with a desire to get rid of a wife, of whom he was tired, which is also a common trick ; but he was instructed to charge the plaintiff with gross negligence of his wife, and that from that negligence the cause of this action arose. This he should prove, and then the jury would do justice between the parties. Justice he should ask, and he should call for neither more nor less than justice.

Charles Wren, who had been servant to the defendant, gave an account of cards of compliments having passed between Mr. Sykes and Mr. and Mrs. Parflow ; of her having rode out on horseback with Mr. Sykes, by the consent of Mr. Parflow ; no impropriety of behaviour was, however, noticed or suspected.

Several servants now living with the defendant were produced ; but their evidence did not fix

on either Mr. or Mrs. Parslow any impropriety of behaviour.

Several other witnesses were called for the defendant; but instead of accusing Mrs. Parslow of impropriety of behaviour, they testified her modesty; and instead of proving that Mr. Parslow was inattentive, they swore he was one of the most affectionate husbands they ever saw. — These witnesses were women.

Mr. ERSKINE, in a speech equal to any we ever heard in that court, again addressed the court and jury: his indignation, he said, had been gradually rising against the defence until it was completed; and then, upon a view of the whole mass, and on a recollection of human infirmity, the first emotion changed into compassion for the defendant; for there was a state, even in infamy, which, for its extreme enormity, excited compassion, when we are aware that further effort on the part of the delinquent can be of no avail. He had been educated, thank God, by parents who felt none of the pangs which attend infidelity to the bridal bed; this was therefore to him a case which was out of the ordinary course of human life; it was a scene of complicated villainy which never before existed. He then desired the jury to consider the extreme malignity of the defendant's case--he no sooner saw that the plaintiff was happy in the love, affection, and
society

society of his wife, but he says to himself, " I must destroy that happiness ; you are now the envy of those who know you, from the extremity of bliss ; but I will make you the objects of compassion of the world, from extreme misery. Behold that beautiful child, that is now the source of so much joy, as the fruit of your former, and pledge of your future endearments ; that beautiful little innocent shall become your curse instead of your consolation !" — Good God ! where are we ! in England ! in the face of magistracy ! in a country of freedom and liberality ! in a state where every man is intitled to freedom and protection of the laws ! in a land where morality, honour, and religion are revered ! or in a desert, inhabited by savages, where no rights are acknowledged and possessed, but those derived from strength and cunning ? According to this defence, every man in England must not only lock up his wife like a Spaniard, but he must also keep a journal of the minutes of his own life, or the adulterer will excuse himself by proving the negligence of the injured husband.

The situation of the parties was also an object of the attention of the jury ; the plaintiff was a gentleman, handsome in his person, accomplished in his manners, but he was only an officer in the dragoons, and had only his pay to support and protect him. The defendant not so ; he was

the only son of a very rich, opulent gentleman, who had acquired great property in India, and he it was who furnished the best proof of the plaintiff's case, by the declaration of his own infamous disposition. With respect to the principle upon which Mr. Bearcroft had contended, that no man ought to be charged with a sum which was beyond his power or ability to pay, it might be answered by observing, that the extreme infamy of the defendant's case entitled him to no favour, and that it was sufficient that there was a probability he would some time be able, if not so at present.

As to the negligence of the plaintiff to his wife, where was the proof? On the contrary, had not all the women, called on the part of the defendant, proved that the plaintiff was an affectionate husband?—and women are the loudest creatures in the world when they see an accomplished, beautiful woman neglected.

But the disposition of the defendant had been misrepresented; he was not so unrelenting a man as had been stated, for he had at last become sensible of the injury which he had done to the plaintiff, and offered certainly to make him complete compensation—he had offered to *cut the plaintiff's throat*!—he had offered to add murder to adultery!—this was kind and relenting in the defendant; for as he knew that the plaintiff must
be

be miserable while he remained on earth, he had offered to send him to a happier state.

Again he entreated the jury to reflect on the plaintiff's situation; how can he look upon this child, this lovely infant, without the keenest anguish!—how can he behold its lovely face without the most mournful throbs of heartfelt sorrow, while it calls to his recollection, and produces to his mind the memory of her once-loved, dear, dear mother, whose endearments produced it!—How can he rear this tender plant, and daily behold it, without exclaiming, O mayst thou always preserve the virtue which thy mother once possessed! Mayst thou have her enchanting and lovely beauty, but God protect thee from her fate!

Lord Kenyon observed upon the points to be considered, and recommended very high damages in this aggravated case. His Lordship made many excellent remarks, and left the quantum of damages to the discretion of the jury.

The jury in one minute gave a verdict for the plaintiff—damages TEN THOUSAND POUNDS.

CHASTE THOUGHTS

O N

A D U L T E R Y.

B Y

L ——— Mc N ——— Esq.

TO seduce another man's wife, and to commit adultery with her, is not in the eye of our law, an offence of a *criminal* nature, cognizable in the temporal Courts; but is only punishable by the spiritual jurisdiction.

Yet surely to alienate a woman's affections from her husband, to defile her person, to corrupt her mind, and to dishonour his bed, is a crime much more prejudicial to the peace of society, than to rob him of any of his worldly goods.

Chastity is to a wife what courage is to a soldier—her very point of honour.

Though the influence of bad example, which alone is supposed to make an act criminal with respect to society, may not be so *extensive* in the former

former case as in the latter, yet certainly it is more *fatal*.

Admitting which, it nevertheless may be disputed, that there is a greater number of delinquents ready to make your purse their booty, than to make your wife a prey to their sensuality; yet the injury received by the one is inconsiderable to that sustained by the latter.

A man's wife may be deemed no less his property than his money; and if she be the wife of his choice, may be considered the most valuable of his possessions; an attempt, therefore, to rob him of so inestimable an enjoyment, is far more criminal in the eye of Reason than to deprive him of any sum whatever.

He must have but a faint experience of conjugal endearments, and must indeed be totally lost to all sense of honour, who does not rate his wife's affections and fidelity beyond all pecuniary price.

ITS PUNISHMENT.

The crime of Adultery was punished with great severity by the Grecian and Roman laws.

In the earlier times of Athens, the punishment seems to have been arbitrary:

Homer makes Hector, in rebuking Paris, tell him, that his crime, in stealing another man's wife, deserved no less punishment than to be stoned to death. Rich adulterers were however sometimes

sometimes allowed to redeem themselves by a fine paid to the husband of the adulterers; whence Homer's gods all agree, that Mars, when caught with Venus, was to pay his fine to Vulcan, who would not consent to his enlargement till Neptune had become his security.

By the Jewish law, adultery was punished with death.

By the Egyptian laws, an adulteress was deprived of her nose, that she might not again tempt men to commit that crime with her.

The crime of adultery, was, among the Saxons, punished by a fine called *Lecherierte*. Doomsday-book rates it at eight shillings and four-pence.

The criminality of *adultery*, as is well observed by the learned author of a treatise entitled, *Sketches of the History of them*, depends, in some measure, on the nature of the matrimonial engagement.

Thus, where wives are purchased and polygamy indulged, adultery can scarcely be called a crime in the husband; and where there is a plurality of wives, sound sense makes it but a venial crime in any one of them.

In China, and the neighbouring kingdoms of Laos, the adulterers was sold for a slave.

Among the Negroes, this crime is but slightly punished.

But

But in many countries where polygamy prevails, the punishment for female adultery is very severe.

It is, indeed, more or less severe, in proportion as the men are more or less prone to revenge.

By the antient laws of England this crime was punished very severely; but at present it is only punished by fine and penance in the Spiritual Court, or by an action of common law for damages.

However, adultery as a temporal offence, being against the peace and good order of society, it should seem reasonable to suppose that it was under the cognizance of the criminal jurisdiction, and consequently indictable.

As to the adulteress, by our law she undergoes no temporal punishment whatever, except the loss of her dower; and she does not lose even that, if her husband is reconciled to her, and cohabits with her after the offence is committed—

“ Sponte virum fugiens mulier, & adultera facta,

“ Dote sua careat, nisi sponsi sponte retracta.”

Thus we may perceive, that while our laws have been stretched to an unreasonable degree of severity in point of property; and with respect to offences deemed merely political, they have become shamefully lax and remiss with respect to moral crimes.

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This is certainly counteracting the very principles of our constitution ; for a free state, like ours, which is a kind of royal republic, cannot be sustained without the support of moral virtue.

In Scotland, where a more strict attention is paid to the duties of religion and morality, we find that the common people are much more regular and virtuous in their conduct than ours, and likewise more intelligent and useful members of the community.

Adultery there was always ranked among the criminal offences, and was punished by fine till the sixteenth century ; but by a statute in 1563, adultery was made capital.

There is no doubt, but that public inattention to morality, tends to render the common people ignorant and dissolute ; for the want of religion and moral principles, leads to a habit of dissipation, which is the parent of vice and stupidity.

Our temporal laws pay so little regard to moral virtue in the provision against adultery, that people in low degree may, and in fact, often do, live in common, and commit the most flagrant violations of conjugal rights with impunity.

It is in vain for the injured party to attempt the recovery of damages against the adulterer, who probably has no substance out of which he can make satisfaction.—Add to this, that the
injured

injured husband, likewise, is not in circumstances to pursue a legal remedy.

It seems reasonable, therefore, that adultery should be cognizable by the criminal jurisdiction.

Such offenders might be proceeded against by way of indictment, and, if found guilty, be adjudged to pay a fine, to be rated according to their station and circumstances; part thereof to be applied towards satisfaction of the party injured, and the remainder to be paid to the Fisk, as a compensation for the breach of the peace, and the injury done to society; and in default of payment, the offender to suffer imprisonment.

The adulterers might undergo some public stigma, or be imprisoned for some time, at the discretion of the Court, according to the circumstances of the case.

Some provisions of this kind would shew that our laws have a regard to the morals of the subject, which in all laws ought to be the primary consideration; since laws without morality are but weak guardians of our persons and property.

Is it not a reflection on our laws, that to obtain a divorce from the bond of matrimony, in case of adultery, the injured party must have recourse to the Ecclesiastical Court and to Parliament, at an expence which confines this remedy to the opulent alone?

Is

Is this doing equal justice to the rich and poor?

Violations of connubial faith are of great prejudice to society; they lessen that regard and attachment which man and woman who cohabit together ought mutually to entertain.

They are the bane of domestic tranquillity, which is the surest pledge of social virtue; for a perturbed mind is always dangerous to society.

Adultery, by consent of the woman, is in some cases more heinous, philosophically considered, than a rape; for the husband hath certainly a greater injury done him, if the woman be debauched, and made willing, than if she were ravished by force; for in the first case her mind is estranged from her husband, in the other it is not.

It is true that next to the safety of our persons, the preservation of our property is the most immediate and important consideration. These purposes, narrow as they seem, were the first and sole inducements to civil society; but in its present improved state, they are too limited to be any longer regarded as the only objects of consideration.

Besides, adultery may be deemed a civil injury; and the law itself, in some instances, thinks so severely of the invasion of right, that it construes it only manslaughter, when a husband kills a man in the fact.

T H E

THE
T R I A L
OF
ROBERT KINDILLAN, Esq.
LIEUTENANT OF DRAGOONS,
NATURAL SON of the late EARL OF BELVIDERE,
FOR A
R A P E
On the Body of Miss ELIZABETH EGAN.

Tried in DUBLIN, DECEMBER 14, 1789.

J. A. I. I.

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T H E
T R I A L
O F

Lieutenant K I N D I L L A N , *Esq. for a*
R A P E .

ON Monday the 14th of December, 1789, came on in Dublin, at an adjournment of a commission of Oyer and Terminer, the trial of Robert Kindillan, Esq. lieutenant in one of his Majesty's regiments of dragoons, for committing a rape on the body of Miss Elizabeth Egan. In a short time after Lord Careleton came into court, the following jury were sworn :

Joseph Wilson,	William Henry Archer,
Wm. Witherington,	Jeffry Foot,
Hale Kirchoffer,	Alexander Place,
James Vigne,	John Theoph. Boileau,
Cornelius Callaghan,	George Cowen,
Robert Smith,	Allen Foster.

As soon as the jury were sworn, the prisoner was given in charge; he stood indicted, for that he, on the 29th day of July, in the 29th year of
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the reign of the present king, in Tighe-street, in the city of Dublin, did assault Elizabeth Egan, and by force, and contrary to her will and consent, did ravish and carnally know her, contrary to the statute in that case made and provided: and Ann Carrol was also indicted for being feloniously present, and aiding and abetting the said Robert Kindillan to perpetrate the felony aforesaid.

Mr. KEOGH, the junior counsel, opened the indictment.

Mr. SHERIDAN stated the case, which he did in a manner that seemed to make a very forcible impression on every person present, and the court was remarkably crowded.

The first witness produced was Miss *Elizabeth Egan*; on her coming into court, and seeing the prisoner at the bar, she appeared exceedingly agitated; she fainted, and it was some time before she recovered herself; her situation seemed to affect, in a most feeling manner, every person present.

She was examined by the Recorder. She deposed, that she knows Robert Kindillan, the prisoner at the bar, and that she also knows Ann Carrol, the other prisoner; she said she became acquainted with Mr. Kindillan about a week before she went off with him. Ann Carrol was a servant woman in her father's house; witness had
seen

seen Mr. Kindillan twice in person ; Ann Carrol had brought her proposals from him, which, at one of these interviews, he asked her if she had considered of them, as he was shortly going out of town ; these proposals were to marry her ; and Ann Carrol told her that she would lose a good match, if she did not well consider of it.— These proposals she rejected, as she thought they ought to have been made to her father, and her acquaintance with Mr. Kindillan was of too short duration. On her being asked what induced her to go off with Kindillan, she said, what induced her to go off with him to be married was, that he said he should make her very happy ; and Ann Carrol told her that he had a very handsome carriage. She said she left her father's house at Phillippsburgh of a Tuesday evening, about five o'clock ; it was in summer ; Ann Carrol went off alone with her : she met Kindillan at the turnpike at Ballybough-bridge ; there was a coach waiting there ; Ann Carrol, witness, and Kindillan got into the coach, and went to Dunleary ; she then thought she was going to Dunleary to be married ; her reason for thinking so was, because she did not imagine he would have the impudence to come into her father's house to make a prostitute of her. She went into a house at Dunleary, where she remained about half an hour ; Kindillan went out of the house ; was absent

about a quarter of an hour; she supposed he went for a priest; on his return he said he met three gentlemen who knew him. From Dunleary they went to the Ram inn in Aungier-street, as she was told; it was dark; she remained there that night; there was violence offered her by Kindillan that night; but he did not effect his violent purpose that night. Left that house the next morning, about seven o'clock; went from that, in a post-chaise, to Sallin. Ann Carrol told her she should be married there; remained there about three hours; from Sallins went to Johnstown: was conveyed there across the field; got to Johnstown about three o'clock; remained there about half an hour; some refreshment of wine and water was given her there by Kindillan; from Johnstown she came to the Sun inn in Queen-street; she found herself then greatly fatigued, and very sleepy; never found herself so much so as that time; she got there before it was dark: she remained at the Sun inn an hour or two; Kindillan had a case of pistols with him. At the Sun inn she had some refreshment, supper, porter, and, she believes, some wine. From the Sun inn went to a house in Barrack-street; Kindillan and Ann Carrol went with her; went up into the first floor; there found a middle-aged woman, with a candle in her hand; it was then about eleven or twelve o'clock at night; she went into a bed-cham-

chamber; expected that Nancy (Ann Carrol) would have slept with her. Nancy pretended to undress to go to bed with her, but did not go. Witness felt herself inclined to sleep; in about a quarter of an hour after found Kindillan come into bed to her; he offered her violence; she made all the resistance she was able; she shrieked out to him to desist: screeched out as loud as she was able to the woman of the house and to Nancy; he had knowledge of her against her will, as he was not married to her. Next day went to a lodging in Queen-street; lived there about a fortnight; from thence went to a Mr. Ford's in Cabbage-garden-lane; went to the Isle of Man, from a place called Skerries, as he told her, and as she believed, with an intent to be married, because she was a Roman Catholic, and he was a Protestant. Kindillan often said he would marry her, but it was in an ambiguous way. She said, that one morning, at Douglas, in the Isle of Man, she was fighting very heavily; he asked her what would make her happy; she said marriage would; he answered that she should be happy, for on his return to Ireland he should take a country farm, and they would live happy together. When she lived at Douglas she passed for his wife; he ordered Nancy to get a ring; remained at the Isle of Man a month; from thence came to Dublin; were but two days returned

when her father and uncle took her from Kindillan; she did not wish to part with him, as she had lived so long with him. On being pressed in respect to the violence offered her, she said he took the liberties with her which he would have taken with his wife; and, on being still further interrogated, she said he had carnal knowledge of her.

Here her direct examination closed.

She underwent a very long and minute cross-examination by Mr. Curran, by which it appeared, that she reluctantly came forward to prosecute; and that she was induced to prosecute at the instance of her friends, in order to do herself justice; and in the course of her cross examination, she said, God forbid that any thing she would say should hurt his life: but, on the whole, it appeared, that she was induced to go off with Kindillan, and to continue with him for the time she did, under the impression of his marrying her. In the course of giving her testimony, she was at various times exceedingly affected; and, if we may judge from the feelings of a very crowded Court, her unfortunate situation seemed to make very forcible impressions on every person present.

Here

Here the prosecution rested for the present.

There was no case stated on the part of the prisoner; but his counsel immediately proceeded to call witnesses.

Michael Concannon was first produced, who deposed, that he is a waiter at the Sun Inn in Queen street; and that Mr. Kindillan, with a lady and servant-maid, came to that house on the 29th of July last; that they supped there; that the house was full, and he went out to take a lodging for them, which he did, at the house of Mrs. Edith Green, No. 39, in Tighe street; and that Mr. Kindillan and the lady walked together from the inn to the lodgings.

Mrs. *Green* was produced, whose testimony went to prove, that she had let her lodgings for that night (though at first she was somewhat averse to it) to a gentleman who had been represented to her to be an officer in the army, and to a young lady, to whom, she was told by the waiter at the Sun Inn, he had been married about three months. She said, she never heard a voice crying out for assistance that night; if she had, she would have heard it. Witness said, she did not soon go to sleep that night, as she was talking to

the lady's maid for near two hours, asking her a great number of questions; that Mr. Kindillan went out the next morning about ten o'clock, and did not return till three; and in the interim she wanted to see the lady, but she seemed dashed, and avoided her.

On her cross examination, she said, That on the lady's coming to her house, she supposed she had married without the consent of her parents.—On being asked, if the lady might not have made a noise without her hearing it; she said, she might have struggled, but she could not have cried loud.

Daniel Monro deposed, that he is tenant to the last witness; that he occupies the shop, back parlour and closet; recollects the night that the gentleman and lady came to lodge at Mrs. Green's house; heard no cries that night, and believes he would have heard any extraordinary noise, if it had been made; if there were cries, is sure he would have heard them: he told Mrs. Green, if there had been any disturbance, he would have given all the assistance in his power, as he had arms in the house.

On his cross examination he said, That Mrs. Green came into his room that night, and expressed

pressed an apprehension that the lady was too young to be that man's wife, and that she suspected all was not right.

Mr. *Richard Jones* was produced. His testimony was, That he knew Mr. Kindillan, and that he saw Miss Egan at her father's house; her uncle told him, that he advised her father to confine her in a room, cut off her hair, and keep her on bread and water: Saw Kindillan and her together on Sunday the 20th of September last; she flew to him, clung round his neck, and cried a great deal; she said, in the presence of the witness that Kindillan had never used violence to her, and that she would lose her life before she would swear any such thing; she said, that Ann Carrol was the cause of all; she told him, that her father had taken up a knife at breakfast, and threatened to stab her. He said, that on the 11th of October, he received a letter from Mr. Egan that he wanted to see him, and on his calling on him in consequence, he found it was to bring a letter from Miss Egan to Mr. Kindillan, to know whether he would do her justice and marry her.

On his cross examination, he said, That Miss Egan told him, that if Mr. Kindillan did not do her justice, she would do herself justice, for the sake of her aunts and sisters.

In

In order to refute the testimony of the last witness, Mr. *John O'Berne* was produced, who said, That it was he who took Kindillan at the Marine Hotel. Witness said, that Jones, the last witness, told him, that he delivered a message to Kindillan to marry Miss Egan; and his answer was, that he should marry her after the trial, but not before, as that would appear that he was intimidated.

On his cross examination, he said, he did believe that the prosecutrix, who was his niece, was under the influence of her father; and he heard her father say, that he would rather than if he got 5000l. make an example of Kindillan to public justice.

The examination of witnesses being gone through, his lordship summed up the evidence with very great accuracy and precision; and having in his charge to the jury, made some very excellent and judicious observations on the evidence that had been adduced in the course of the trial,

The jury, after retiring for about ten minutes, brought in their verdict, that the prisoners at the bar were NOT GUILTY.

COUN-

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O F

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